

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

KAMAL ALI SAADOON,

Defendant and Appellant.

C061619

(Super. Ct. No.
CM030066)

Defendant Kamal Ali Saadoon pled no contest to possessing methamphetamine (Health & Saf. Code, § 11377, subd. (a)-- count 1), possessing a drug-smoking device (Health & Saf. Code, § 11364, subd. (a)-- count 2), and possessing 28.5 grams of marijuana, a misdemeanor (Health & Saf. Code, § 11357, subd. (b).)

Among the fines and fees imposed by the trial court at sentencing, defendant was ordered to pay a \$50 criminal laboratory analysis fee (Health & Saf. Code, § 11372.5, subd.

(a)) on each count to which it added the following penalty assessments: a \$10 court surcharge (Pen Code, § 1465.7); \$25 court facilities construction fee (Gov. Code, § 70372); \$50 state penalty assessment (Pen. Code, § 1464); \$35 county penalty assessment (Gov. Code, § 76000); \$5 DNA identification fund fee (Gov. Code, § 76104.6), and a \$5 state-only DNA identification fund fee (Gov. Code, § 76104.7). These penalty assessments add up to \$180 for each of the three counts, and a total of \$540. The court also imposed a \$100 fine for count 3 (Health & Saf. Code, § 11357, subd. (b).)

Defendant's sole contention on appeal is that the court erred in imposing a laboratory fee on count 3 because misdemeanor possession of marijuana is not among the enumerated offenses for which a lab fee may be imposed. (Cf. Health & Saf. Code, §§ 11372.5, subd. (a) and 11357, subd. (b).) He urges us to strike the fee imposed on count 3, together with its corresponding penalty assessments, thereby eliminating \$180 in fines.

The People properly concede that the laboratory fee was improperly imposed on count 3, and should be stricken.

However, they argue, the court should have -- but failed to -- impose the same penalty assessments based upon the \$100 statutory fine it imposed on count 3 for defendant's violation of Health and Safety Code, section 11357, subdivision (b). They

urge us to amend the judgment to order the imposition of \$260 in penalty assessments based on the \$100 fine on count 3.¹

The People are correct. The penalty assessments enumerated above are to be levied "on every fine, penalty or forfeiture" imposed for all criminal offenses. (See Pen. Code, §§ 1464, subd. (a), 1465.7; Gov. Code, §§ 70372, subd. (a), 76000, 76104.6, & 76104.7.) They are mandatory. (*People v. Taylor* (2004) 118 Cal.App.4th 454, 456.)

Where, as here, "the trial court's errors and the appellate remedies are clear" and the interests of judicial economy are served, it is proper for us to amend the judgment to add the mandatory penalty assessments. (Cf. *People v. Taylor, supra*, 118 Cal.App.4th at p. 456.) In so doing, we decline defendant's invitation to remand the matter to the trial court.

DISPOSITION

The judgment is modified to strike the \$50 laboratory fee imposed on count 3, together with its corresponding penalty assessments. The judgment is also modified to reflect the imposition of the following penalty assessments upon the \$100

¹ The People assert the penalty assessments that should be imposed based on the \$100 fine are as follows: \$100 under Penal Code section 1464 (\$10 for each \$10 of fine imposed); \$20 under Penal Code section 1465.7, subdivision (a) (20 percent of fine imposed); \$50 under Government Code section 70372, subdivision (a) (\$5 for each \$10 of fine imposed); \$70 under Government Code section 76000 (\$7 for each \$10 of fine imposed); \$10 under Government Code section 76104.6 (\$1 for each \$10 of fine imposed); and \$10 under Government Code section 76104.7 (\$1 for each \$10 of fine imposed), for a total of \$260. Defendant does not challenge this calculation.

fine imposed on count 3: a \$100 state penalty assessment under Penal Code section 1464; a \$20 court surcharge under Penal Code section 1465.7, subdivision (a); a \$50 court facilities construction fee under Government code section 70372, subdivision (a); a \$70 county penalty assessment under Government Code section 76000; a \$10 DNA identification fund fee under Government Code section 76104.6; and a \$10 state-only DNA identification fund fee under Government Code section 76104.7, for a total of \$260. In all other respects, the judgment is affirmed.

The trial court shall prepare a new abstract of judgment reflecting the addition and subtraction of the above amounts and forward a certified copy to the Department of Corrections and Rehabilitation.

BLEASE, Acting P. J.

We concur:

SIMS, J.

BUTZ, J.